

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

ROBERT S. TREPETA *on behalf of himself*)
and all other similarly situated individuals,)
))
Plaintiffs,)
))
v.) Case No. 2:18-cv-00437-RAJ-DEM)
))
NATIONAL CONSUMER TELECOM AND)
UTILITIES EXCHANGE, INC. and)
EQUIFAX INFORMATION SERVICES,)
LLC,)
))
Defendants.)

**MEMORANDUM IN SUPPORT OF JOINT MOTION FOR MODIFICATION OF
SCHEDULING ORDER**

Plaintiff, Robert S. Trepeta (“Plaintiff”), and Defendants, Equifax Information Services LLC (“Equifax”) and National Consumer Telecom and Utilities Exchange, Inc. (“NCTUE”) (collectively “Defendants”), through their respective attorneys of record, respectfully submit this memorandum in support of their joint motion for a modification of the Court’s scheduling order so that the parties can engage in settlement discussions, including a mediation session. For the reasons stated in their motion, and below, the parties respectfully request that the joint motion be granted.

INTRODUCTION

Plaintiff asserts separate claims against Equifax and NCTUE. Against NCTUE, Plaintiff asserts a claim in his individual capacity for allegedly failing to respond to his request for a copy of his consumer disclosure pursuant to the Fair Credit Reporting Act (“FCRA”). *See* Am. Compl. ¶ 39. Against Equifax, Plaintiff asserts a claim on behalf of himself and a purported class that Equifax should have included, but did not include, information about him from the NCTUE

database in a consumer disclosure it provided to Plaintiff at his request. *See id.* at ¶ 36. Equifax and NCTUE deny Plaintiff's allegations.

The parties have conferred and agree that before incurring the additional burden and expense of litigation, and potentially taxing the Court's resources with motions practice, it would be beneficial to engage in settlement negotiations, including a mediation. The parties have already started contacting mediators that counsel for the Plaintiff and/or for Equifax have used in the past in other Fair Credit Reporting Act class actions to determine their availability. After a mediator is selected, they intend to schedule the session to take place as quickly as possible. The parties therefore respectfully request that the Court modify the existing scheduling order by extending the current due dates 90 days to facilitate these discussions.

ARGUMENT

It is within the Court's discretion to modify its own scheduling orders "for good cause." Fed. R. Civ. P. 16(b)(4). In the present case, good cause for the requested extension exists because it would permit the parties to engage in settlement discussions, potentially resolving this purported class action. Modifying the scheduling order to accommodate these discussions, without the attendant burden, expense, and distraction of ongoing, multifaceted discovery, would serve the interests of the parties and the Court. The parties have not requested any prior extensions of the discovery period or briefing deadlines, and they do not do so here for any improper or dilatory purpose.

Accordingly, the parties request that the Court modify the current scheduling order as follows:

	Current Deadline	Proposed Deadline
Plaintiff's Discovery Deadline	April 9, 2019	July 8, 2019
Response to 26(a)(2)(B) Expert Disclosures Deadline	April 25, 2019	July 24, 2019
Defendant's Discovery Deadline	May 7, 2019	August 5, 2019
Plaintiff's Rebuttal Expert Disclosures Deadline	May 10, 2019	August 8, 2019
Pre-Trial Disclosures Deadline	May 15, 2019	August 13, 2019
Objections to Pre-trial Disclosures Deadline	May 22, 2019	August 20, 2019
Attorney's Conference Deadline	May 24, 2019	August 22, 2019
Circulation of draft of Final Pre-trial Order Deadline	May 29, 2019	August 27, 2019
Final Pre-Trial Conference Deadline	May 31, 2019	August 29, 2019
Last day to submit and serve proposed jury instructions and voir dire questions	June 11, 2019	September 9, 2019
Trial	June 18, 2019	September 16, 2019

CONCLUSION

For the reasons above and in their joint motion, Plaintiff and Defendants request that their motion be granted and that the scheduling order be modified as set forth above.

Respectfully submitted this 26th day of March 2019.

/s/ John W. Montgomery, Jr.

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CERTIFICATE OF SERVICE

This is to certify that I have this 26th day of March, 2019, electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such to all attorneys of record:

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